

Notice of Allowability

Application No.

10/605,314

Examiner

Carlos Lugo

Applicant(s)

EKLUND ET AL.

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on June 1, 2005.
2. ☒ The allowed claim(s) is/are 1-13.
3. ☒ The drawings filed on 01 June 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date May 18, 2005.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on June 1, 2005. Applicant's arguments (Pages 5-7) with respect to the rejection of claim 1 in view of Galbreath '164 and Smith '142, as modified by Binns, were persuasive and the rejection was withdrawn.

Allowable Subject Matter

2. **Claims 1-13 are allowed.**

Reasons For Allowance

3. The following is an examiner's statement of reasons for allowance:

Claims 1 and 12 are allowable over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the closed keeper, if it is maintained in the unlatch position, the handle flange can engage a portion of the closed keeper, so as to moved back to locked position (claim 1); and that the base plate comprises a tab extending laterally therefrom and the closed keeper further comprises a first stop for limiting the movement of the closed keeper to the unlatched position and a second stop for limiting the movement of the closed keeper to the latched position (claim 12).

Galbreath '164 fails to disclose that when the closed keeper is maintained in the unlatched position, the handle contact a portion of the closed keeper so as to move the closed keeper to the latched position.

Galbreath discloses that the handle will contact a portion (66) of the closed keeper (57) when the handle is moved from the open to the closed position, however,

the closed keeper is not at an unlatch position, wherein the closed keeper clears the path, when the handle contact the portion; it is located at a locked position (Col. 5 Lines 27-36). In other words, when the handle is moved from the closed to the open position, the handle moves the closed keeper (57) so as to clear the path, however, after the handle pass certain point, the closed keeper moves back to its original or locked position by gravity.

Galbreath '164 closed keeper (57) is capable of being maintained in the unlatched position, by any means (like corrosion or rust in the pivot pin or by just maintained in that position by using the hand). However, when a user is moving back the handle to the closed position, it would not contact a portion of the closed keeper, since the closed keeper has been moved to a position that clears the path.

Smith '142 also fails to disclose that when the closed keeper is maintained in the unlatched position, the handle contact a portion of the closed keeper so as to move the closed keeper to the latched position.

Smith '142 discloses that the handle will contact a portion (110) of the closed keeper (57) when the handle is moved from the open to the closed position, however, the closed keeper is not at an unlatch position, wherein the closed keeper clears the path, when the handle contact the portion; it is located at a locked position (Figures 9-11). In other words, when the handle is moved from the closed to the open position, the handle moves the closed keeper (110) so as to clear the path, however, after the handle pass certain point, the closed keeper moves back to its original or locked position by gravity.

Smith '142 closed keeper (110) is capable of being maintained in the unlatched position, by any means (like corrosion or rust in the pivot pin or by just maintained in that position by using the hand). However, when a user is moving back the handle to the closed position, it would not contact a portion of the closed keeper, since the closed keeper has been moved to a position that clears the path.

Binns is only used to teach that it is well known in the art to have an assembly wherein the handle (14) and a closed keeper (11) are mounted in the same base plate (13).

As to claim 12, Smith '142 and Binns disclose that the base plate includes a tab (72 and 33 respectively). However, Neither Smith '142, Binns or even Galbreath '164 discloses that the closed keeper further comprises a first stop for limiting the movement of the closed keeper to the unlatched position and a second stop for limiting the movement of the closed keeper to the latched position. Also, Smith '142 tab (72) is limiting the movement of the handle and Binns tab (33) is for secure the closed keeper in a lock position with or without a locking means.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.
Carlos Lugo
AU 3676

June 10, 2005



**BRIAN E. GLESSNER
PRIMARY EXAMINER**